

EL

Notice of Allowability	Application No.	Applicant(s)	
	10/501,558	LUDVIKSSON, AUDUNN	
	Examiner	Art Unit	
	Michael Maskell	2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Communications filed 08/31/2007.
2. ☒ The allowed claim(s) is/are 1-47.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20071022</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Acknowledgment is made of the amendment received 08/31/2007. Claims 1, 7, 8, 16, 17, 24, 25, 26, 32, 33, 35, 39, 40, and 41 stand amended. New claims 42-47 have been added.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Soumya Panda on 10/11/2007. The application has been amended as follows:

In claim 17, add "at a point downstream from the position" to the end of the last sentence of the claim.

In claim 39, add "at a point downstream from the position" after the word "identifying" in line 11 of the claim.

In claim 40, add "at a point downstream from the position" after the word "species" in line 6 of the claim.

In claim 41, add "at a point downstream from the position" after the word "species" in line 13.

2. The following is an examiner's statement of reasons for allowance: the prior art does not teach the location of at least one sensor in fluid communication with the effluent system and located downstream from the position at which a second gas is injected into the effluent system downstream from the first opening as recited in amended independent claims 1, 7, 35; or the analogous step of identifying an excited or ionized gaseous species at said location downstream from the said position as recited in amended independent claims 8, 17, 26, 39, 40, and 41. Paragraphs 0033 and 0034 of the applicant's specification discuss the functional advantages of this configuration; therefore, this arrangement, which is not explicitly taught in the prior art, cannot be considered an obvious matter of design choice. Powell, et al. (U.S. Patent 6,791,692 B2) teaches a system for monitoring an effluent system (Fig. 4), but performs ionization by RF discharge directly upon the effluent analyte, and not via the injection of a second gas. Bertrand, et al. (U.S. Patent 6,124,675 A) teaches a method and apparatus of ionizing an analyte by metastable atom bombardment (Fig. 3), but fails to teach the aforementioned arrangement wherein the detector is located downstream of both the effluent system inlet and the position at which the ionizing gas species is injected. Likewise, Marcus (U.S. patent application publication 2002/0003210) does not teach this particular arrangement.

3. Claims 2-6, 42, and 45 are allowable by virtue of their dependence on allowable claim 1.

4. Claims 43 and 46 are allowable by virtue of their dependence on allowable claim 7.

Art Unit: 2881

5. Claims 9-16 are allowable by virtue of their dependence on allowable claim 8
6. Claims 18-25 are allowable by virtue of their dependence on allowable claim 17.
7. Claims 27-33 are allowable by virtue of their dependence on allowable claim 26.
8. Claims 36-47 are allowable by virtue of their dependence on allowable claim 35.
9. Claim 34 is allowable by virtue of its dependence on allowable claims 8, 17, or 26.
10. Regarding the previous rejections under 35 U.S.C. 101, the rejection is not rendered moot by the amendment as applicant argues; rather, upon further consideration, the examiner concludes that the rejection was not justified to begin with. Identifying or characterizing a sample, declaring a fault, creating a data table, and establishing an endpoint for a process are all useful results for a measurement and observation device and method of using the same. If these things were non-statutory, then no devices such as gauges that return only information would be patentable. The rejections of claims 8-34 and 39-41 under 35 U.S.C. 101 are therefore withdrawn.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Maskell whose telephone number is 571/270-3210. The examiner can normally be reached on Monday-Friday 8AM-5PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on 571/272-2293. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Michael Maskell
22 October 2007



ROBERT KIM
SUPERVISORY PATENT EXAMINER